

CITY OF LODI
REQUEST FOR PROPOSALS
FOR
OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES
Proposal Date: April 8, 2010

I. PROJECT OVERVIEW

A. Goal

The City of Lodi ("City") requests Proposals from qualified firms ("Consultant") to develop annual City-wide central service cost allocation plans and annual indirect cost rate proposals for selected divisions/business units in accordance with the Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments), and applicable state and federal regulations which will allow the City to maximize reimbursements from federal and state agencies. The City intends to award a contract covering five fiscal years. The Proposal must cover all points outlined in this document.

B. Description of City

The City is a general law city, duly created, organized and existing under the laws of the State of California. The City operates under the Council-Manager form of government and is governed by a 5-member Council.

The City provides the full spectrum of municipal services.

The City has approximately 410 full time employees and consists of the following departments: City Manager, City Attorney, City Clerk, Internal Services, Police, Fire, Public Works, Electric Utility, Community Development, Parks and Recreation, Library and Community Center. The City operates with a Cost of Services allocation that had been completed in 2007. The City does not currently fully allocate central service costs to all operating departments and divisions. **Exhibit 1** is the City's current organizational chart and a brief description of the central service units. In addition, a copy of the City's most recent audited financial statement is available on the City's website at www.lodi.gov.

C. Proposal Requirements

The City wishes to establish annual City-wide central service cost allocation plans in compliance with Federal OMB Circular A-87 that meet, at a minimum, the guidelines set forth by the California Department of Transportation (Caltrans), the Federal Highway Administration (FHWA) and/or the Federal Transit Administration (FTA), and the Federal Housing and Urban Development (HUD) and must be in a format acceptable to the City's cognizant federal agency. The City also desires annual indirect cost rate proposals to be calculated for selected

divisions/business units of the City in accordance with the above-mentioned government organizations.

The City's fiscal year is July 1st through June 30th. The cost allocation plans and indirect cost rate proposals will be based on audited data which will be available approximately November 15th following the end of each fiscal year.

The City intends to award a five-year contract. The contract will cover the calculation of City-wide central service cost allocation plans and indirect cost rates for five consecutive years starting with Fiscal Year 2010-11.

Successful experience working with Caltrans Department of Audits and Investigations, FTA and HUD is preferred.

D. Scope of Services

The Consultant is required, but not limited, to:

1. Conduct appropriate interviews with City departments to identify appropriate allocation bases and methods of distributing costs that are most appropriate which may favorably impact indirect cost recoveries.
2. After appropriate consultations necessary to gain familiarity with City operations, recommend strategies and procedures to maximize potential recovery of City costs from grant sources.
3. Instruct City staff on OMB Circular A-87 concepts and application. Identify available data which can be effectively incorporated into the indirect cost allocation plans, and determine opportunities to simplify data collection activities for future plans.
4. Develop and prepare City-wide central service cost allocation plans and indirect cost rate proposals for selected divisions/business units of the City, in accordance with OMB Circular A-87 for federal and state grant reimbursement. The finished products should meet, at a minimum, the guidelines set forth by Caltrans, the FHWA and/or FTA, and HUD and will be in a format acceptable to City's cognizant federal agency.
5. Assist in negotiating with cognizant agencies. Note: Should the cognizant agency not approve the plan or rate(s), the Consultant **shall** modify the document(s) to an acceptable level within the appropriate designated time frame. **At its discretion, the City may withhold 5% of each yearly payment until a letter of approval from the appropriate cognizant agency is received by the City.**
6. Provide the model used to calculate the allocations and indirect cost rates and train City staff in the model that Consultant uses such that City staff would be able to use the model independently after the termination of the contract resulting from this proposal.

E. Project Deliverables

At minimum, the Consultant will be required to provide the following products in the

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performance of the contract. The following schedule reflects the City's preferred timetable. Proposers shall indicate whether they accept the following timetable or propose an alternate schedule.

1. **For Fiscal Year 2010-11 (based on 2008-2009 audited data)** – Drafts of the following are due to the City by October 1, 2010, and in final form to the cognizant agency no later than November 5, 2010:
 - a. City-wide Central Service Cost Allocation Plan
 - b. Indirect Cost Rate Proposals for the units listed in Exhibit 1
2. **For Fiscal Year 2011-2012 (based on 2009-2010 audited data)** – Drafts of the following are due to the City by February 1, 2011, and in final form to the cognizant agency no later than March 1, 2011:
 - a. City-wide Central Service Cost Allocation Plan
 - b. Indirect Cost Rate Proposals for the units listed in Exhibit 1
3. **For Fiscal Year 2012-2013 (based on 2010-2011 audited data)** – Drafts of the following are due to the City by February 1, 2012, and in final form to the cognizant agency no later than March 1, 2012:
 - a. City-wide Central Service Cost Allocation Plan
 - b. Indirect Cost Rate Proposals for the units listed in Exhibit 1
4. **For Fiscal Year 2013-2014 (based on 2011-2012 audited data)** – Drafts of the following are due to the City by February 1, 2013, and in final form to the cognizant agency no later than March 1, 2013:
 - a. City-wide Central Service Cost Allocation Plan
 - b. Indirect Cost Rate Proposals for the units listed in Exhibit 1
5. **For Fiscal Year 2014-2015 (based on 2012-2013 audited data)** – Drafts of the following are due to the City by February 1, 2014, and in final form to the cognizant agency no later than March 1, 2014:
 - a. City-wide Cost Allocation Plan
 - b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

The City reserves the right to eliminate from the Scope of Services in any year any sub-component of the Indirect Cost Rate Proposal. Should the City remove any sub-component in any year, payment to the Consultant will be modified by mutual agreement between the City and the Consultant.

A summary table of the deliverables is included in **Exhibit 2** for reference.

Note: Electronic versions and five (5) written copies of Drafts and Final Documents are required for each year.

F. Contract Term

The City intends to award a five-year contract unless terminated sooner in accordance with Section 18 of the Sample Professional Services Agreement (**Exhibit 3**). The contract will cover the calculation of City-wide central service cost allocation plans and indirect cost rates for five consecutive fiscal years starting with 2010-2011.

II. PROPOSAL INSTRUCTIONS AND DESCRIPTION OF THE PROPOSAL PROCESS

A. Timeline for Proposal Submission Process

RFP Issued	Thursday, April 8, 2010
Request for Clarification Due Date	Wednesday, April 21, 2010 by 4:00 PST
Addendum (if necessary)	Monday, May 3, 2010
Proposal Due Date	<i>Monday May 17, 2010 by 4:00pm PST</i>
Interviews (if necessary)	Wednesday, June 3, 2010 or Thursday, June 4, 2010
City Council Award of Contract	Wednesday, June 16, 2010
Notice to Proceed	July 2010 (date TBD)

B. Requests for Clarification, Corrections or Modifications

Any requests for clarification, correction or modifications of proposal requirements shall be submitted in writing to the Deputy City Manager by **4:00 p.m. PST Wednesday, April 21, 2010**. Any interpretation or modification of the Request for Proposals (RFP) will be made by written addenda only, duly issued by the Deputy City Manager no later than **Monday, May 3, 2010**. Copies of such addenda will be mailed or delivered to each firm receiving the RFP. All oral modifications of these conditions or specifications are void and ineffective. The City reserves the right to reject any Proposal that contains unauthorized conditions or exceptions.

C. Proposal Submission

An original Proposal and six (6) copies should be submitted in a sealed envelope marked, "**OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES**" and plainly endorsed with the Proposer's name and address. Proposals will be sent or delivered to the following address:

Mail To:
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

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Attention: Jordan Ayers, Deputy City Manager

Hand Deliver To:

City of Lodi
Finance Division
310 West Elm Street
Lodi, CA

Attention: Jordan Ayers, Deputy City Manager

Proposals must be received no later than **Monday May 17, 2010 at 4:00pm PST**. Proposals received after the time and date specified will not be considered. The City is not responsible for delayed deliveries due to mailing. The time received in the City office shall determine the official time received. Submission of a Proposal shall constitute a firm offer to the City for ninety (90) days from the submission deadline for Proposals.

City staff will review all Proposals received and several finalists may be selected. These finalists may be invited to an oral interview. Please reserve **Wednesday, June 3, 2010 and Thursday, June 4, 2010** as tentative dates for finalist interviews should interviews be conducted. It is requested that the attendees be restricted to those individuals who will have direct involvement with the program.

D. Proposal Forms and Sample Documents

The following documents are included in this RFP:

- **Exhibit 1:** Description of Central Service Units and City Organizational Chart
- **Exhibit 2:** Summary of Deliverables
- **Exhibit 3:** Sample Professional Services Agreement
- **Exhibit 4:** Proposal Form
- **Exhibit 5:** Acknowledgment of Addenda (if applicable)

The Proposal Form (**Exhibit 4**) must be completed and signed by one or more individuals with authority to bind the Proposer to the Proposal. If addenda are issued, the Proposer must complete and submit the Acknowledgment of Addenda (**Exhibit 5**) with its proposal.

E. Proposal Content

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that Proposals include the following basic format. The Proposer is expected to provide services as outlined in this RFP and prepare its response to fully address its ability to satisfy these components.

1. General Information of Firm - Please provide the following:

- a) Firm's name and address
- b) RFP contact / phone / fax / email
- c) Names of authorized principals with authority to negotiate and contractually bind the firm
- d) A signed letter of transmittal stating the Proposer's understanding of the work

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to be done, a statement why the firm believes itself to be the best qualified to perform the engagement, and a statement that the proposal is a firm and irrevocable offer for the 90 days after June 17, 2010. Please confirm that the firm has accepted the Sample Professional Services Agreement included as **Exhibit 3**.

- e) Indicate whether there are any conflicts of interest that would limit your ability to provide services. See Section 22 of the Sample Professional Services Agreement (**Exhibit 3**). Provide any required disclosures pursuant to the Levine Act. See Section J below.

2. Qualifications and Experience of the Firm - Please address the following:

- a) Describe your firm's history and organizational structure. Include number of years in business, size of company (employees, yearly revenue).
- b) Describe your firm's experience with servicing public agency clients for services described in this RFP.
- c) How many years has your firm been doing work outlined in the scope of this RFP?
- d) Describe any known or perceived actual or potential conflicts of interest with the City, its Council members, officers, agents or employees. (Please refer to Section 22, Conflict of Interests of the Sample Professional Services Agreement in **Exhibit 3**).

3. Qualifications and Experience of Team

- a) How many staff would be assigned to conduct the scope of work? Identify the members of the plan service team including their tenure with your firm, background including any applicable licenses and certifications, education and location and the role they will play in managing the City's account.
- b) Will you utilize any subcontractors for the servicing of this plan? If yes, describe your relationship with the subcontractor, the subcontractor's history and experience in providing similar fund services and the experience of the subcontractor's employees that will provide services to the plan.

4. Approach

- a) Outline how your firm plans to accomplish the Scope of Services outlined in **Section I.D.** and Project Deliverables outlined in **Section I.E.** of this RFP. Submit a work plan that details your firm's approach and methodology, as well as a proposed timeline that indicates when each element of the Scope of Services will be performed and when each Project Deliverable will be completed.
- b) Describe in detail the information your firm would require from the City to complete the work requested.
- c) Attach as an Exhibit to your proposal a sample cost allocation plan and indirect cost rates that your firm has done in the last year, preferably, that was submitted to Caltrans or FTA for approval. You may redact confidential information as necessary.
- d) Please describe any other services and/or area of expertise, which are included in your total fee, or that may distinguish your firm's ability to provide the

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services requested in this RFP.

- e) Indicate whether the City's proposed manner of payment set forth in Section 13 of the attached Sample Professional Services Agreement (**Exhibit 3**) is acceptable. Propose an alternate payment methodology if desired.

5. Financial Stability

- a) Attach a copy of your AM Best rating or Dun and Bradstreet rating as an Exhibit to your proposal.
- b) Attach a copy of your most recent audited financial statement as an Exhibit to your proposal.
- c) If the Proposer is not a publicly held corporation and does not have AM Best or Dun and Bradstreet rating or audited financial statements, please provide internal unaudited financial statements, financial references, and any other pertinent information to allow the City to reasonably formulate a determination about the stability and financial strength of your firm.
- d) List any pending administrative proceedings, investigations and civil suits against the firm relating to the firm's performance of its professional duties

6. References

Please list the names, addresses, and telephone numbers relating to three (3) existing clients and two (2) previous clients for whom your firm has developed recent (within the last three years) cost allocation plans and indirect cost rates, preferably, which were submitted to Caltrans or FTA for approval. Please provide a brief description of the work provided for each reference.

7. Fee Structure

Please complete Proposal Form (**Exhibit 4**) to provide a fixed all-inclusive fee structure to perform all services described in the Scope of Services (**Section I.D.**) and Project Deliverables (**Section I.E.**) above. No additional reimbursement will be provided for travel time, expenses, telephone costs, copying costs, etc. Please also submit on a separate page hourly rates, by personnel category, for each year which will apply to any modification to the scope of services. The hourly rates set forth shall hold firm for each year. The City will evaluate cost proposals on the basis of the Grand Total sum of the Yearly Totals as indicated on the Proposal Form.

8. Certificate of Insurance

Proposers are requested to provide a completed sample Certificate of Insurance evidencing the coverage types and the minimum limits required as described in Section 12 of the Sample Professional Services Agreement (**Exhibit 3**) with their proposal. The City requires this information to facilitate completing contract formalities in a timely manner if an award is made. The City may request additional information or clarification if necessary.

F. Withdrawal of Proposal

Submission of a Proposal shall constitute a firm offer to the City for ninety (90) days from the submission deadline for Proposals.

A Proposer may withdraw its Proposal anytime before the date and time when Proposals are due,

without prejudice, by submitting a written request for its withdrawal to the Deputy City Manager. A telephone request is not acceptable.

G. Selection Criteria

The City intends to award a Contract to the most qualified firm submitting a responsive Proposal. Ranking will be based on a maximum of 100 points, weighted as indicated on the following table. In determining the number of points a Proposal will receive in each category, the City will consider the Proposal material submitted, oral interviews (if applicable), and any other relevant information about a given Proposer. The firm submitting a responsive Proposal with the highest total weighted score, based on composite scoring of the selection committee, will be determined to be the most qualified. The following criteria will be used in the evaluation of the Proposals:

<u>Selection Criteria</u>	<u>Points Awarded</u>
1. Qualifications and Experience of Firm <ul style="list-style-type: none"> • Financial stability of firm • Quality of references of similar work performed • Firm's experience in servicing public agencies relating to the Scope and Services and Project Deliverables outlined in this RFP 	0-10
2. Qualifications and Experience of Personnel Assigned to the Project <ul style="list-style-type: none"> • Expertise and technical qualifications of firm's staff who will execute Scope of Services outlined in the RFP • Staff's experience (in particular with Caltrans and FTA) relating to the Scope and Services and Project Deliverables outlined in this RFP 	0-20
3. Approach and Quality of Work Plan <ul style="list-style-type: none"> • Comprehensiveness, feasibility, and effectiveness of Proposal and submitted work plan • Quality of sample cost allocation plan report and indirect rate proposals • Proposed schedule for performing all services and providing all deliverables 	0-40
4. Fee Structure	0-30
Grand Total	0-100

The City may reject any Proposal in which the approach, qualifications or proposed compensation are not deemed to be within an acceptable or competitive range. The City may seek clarifications from any or all Proposers regarding their Proposals, or may request that Proposers submit modified Proposals.

Following the initial review and screening of the written Proposals, using the Selection Criteria described above, one or more companies *may* be invited to participate in the final selection

process, which may include participation in an oral interview and/or submission of any additional information as requested by the City.

The City reserves the right to conduct pre-award negotiations with any or all Proposers, and the right to award the contract without negotiations. The City reserves the right to award the Contract without conducting interviews.

This RFP does not commit the City to awarding a Contract. Proposers shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal process. The City reserves the right to reject any and all Proposals, to accept the Proposal it considers most favorable to the City's interest in its sole discretion, and to waive minor irregularities. The City further reserves the right to seek new Proposals when such procedure is considered by it to be in the best interest of the City.

H. Protest Procedures

Protests based upon restrictive specifications or alleged improprieties in the RFP procedure shall be filed in writing with the Deputy City Manager at least five (5) calendar days prior to Proposal opening. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon City staff's recommendation for award of the Contract shall be submitted in writing to the Deputy City Manager within forty-eight (48) hours of receipt of notice of the staff recommendation for award. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Failure to comply with any of the requirements set forth in this section of the RFP regarding proposal protest procedures may result in rejection of the protest.

I. Confidentiality

The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to these specifications, protest or any other written communication between the City and the Proposer shall be available to the public.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. The Proposer may not designate its entire Proposal as confidential. Additionally, the Proposer may not designate Proposal Forms as confidential.

If the Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all cost and expenses related to the withholding of the Proposer information. The Proposer shall not make a claim, sue

or maintain any legal action against the City or its council members, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If the Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without liability to the City.

J. Form of Professional Services Agreement

The firm selected by the City to perform the services outlined in this RFP will be required to execute an Agreement for Professional Services with the City, the general form of which is attached as **Exhibit 3** so that potential Proposers have an opportunity to review the terms and conditions that will be included in the Agreement. If a Proposer desires any modifications to the form of Agreement, they must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. Attention is directed, in particular, to the Indemnification and Insurance requirements set forth in Sections 11 and 12 of the Agreement.

K. Ex Parte Communication

Proposers and Proposers' representatives may not communicate orally with an officer, council member, employee or agent of the City, with the exception of the Deputy City Manager regarding this RFP until after a Notice to Proceed has been issued by the City. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

In the context of this RFP, an "ex parte communication" is any communication between a Proposer (or the Proposer's representative) and the City's City Manager, Council Member, officer or employee, regardless of who initiates the communication, other than as part of the procurement process specified herein, before the City issues a Notice to Proceed, unless it is in writing and available for disclosure to the general public.

CITY OF LODI

CENTRAL SUPPORT UNITS

The following is a brief description of each of the Central Support Units that will need to be included in the cost allocation plan.

City Manager

This unit consists of the City Manager's Office, Economic Development, and Community Promotions units. Services are provided to all City departments. These units do not generate any direct revenue.

City Attorney

The City Attorney provides services to all City departments. Occasionally, services are provided that are reimbursable by an outside party.

City Clerk

The City Clerk provides services to all City departments. There is no outside revenue for this function.

Internal Services

This department consists of Financial Services, Budget and Treasury (which includes Purchasing), Human Resources, Information Systems and Non-Departmental Costs.

- *Financial Services*
 - This division consists of the Accounting group and the Utility Billing and Collections group. The Accounting group provides services to all City departments. The Utility Billing and Collections group provides services to the City-owned utilities. Each of these groups direct bills other departments for some services, collects some costs through a component of franchise fees and collects the balance of their costs through the cost of services allocation.
- *Budget and Treasury*
 - Services are provided to all City departments. All costs of these units are recovered through the cost of services allocation.
- *Human Resources*
 - Services are provided to all City departments. All costs of this unit are recovered through the cost of services allocation.
- *Information Systems*
 - Services are provided to all City departments. All costs of these units are recovered through the cost of services allocation.
- *Non-Departmental Costs*

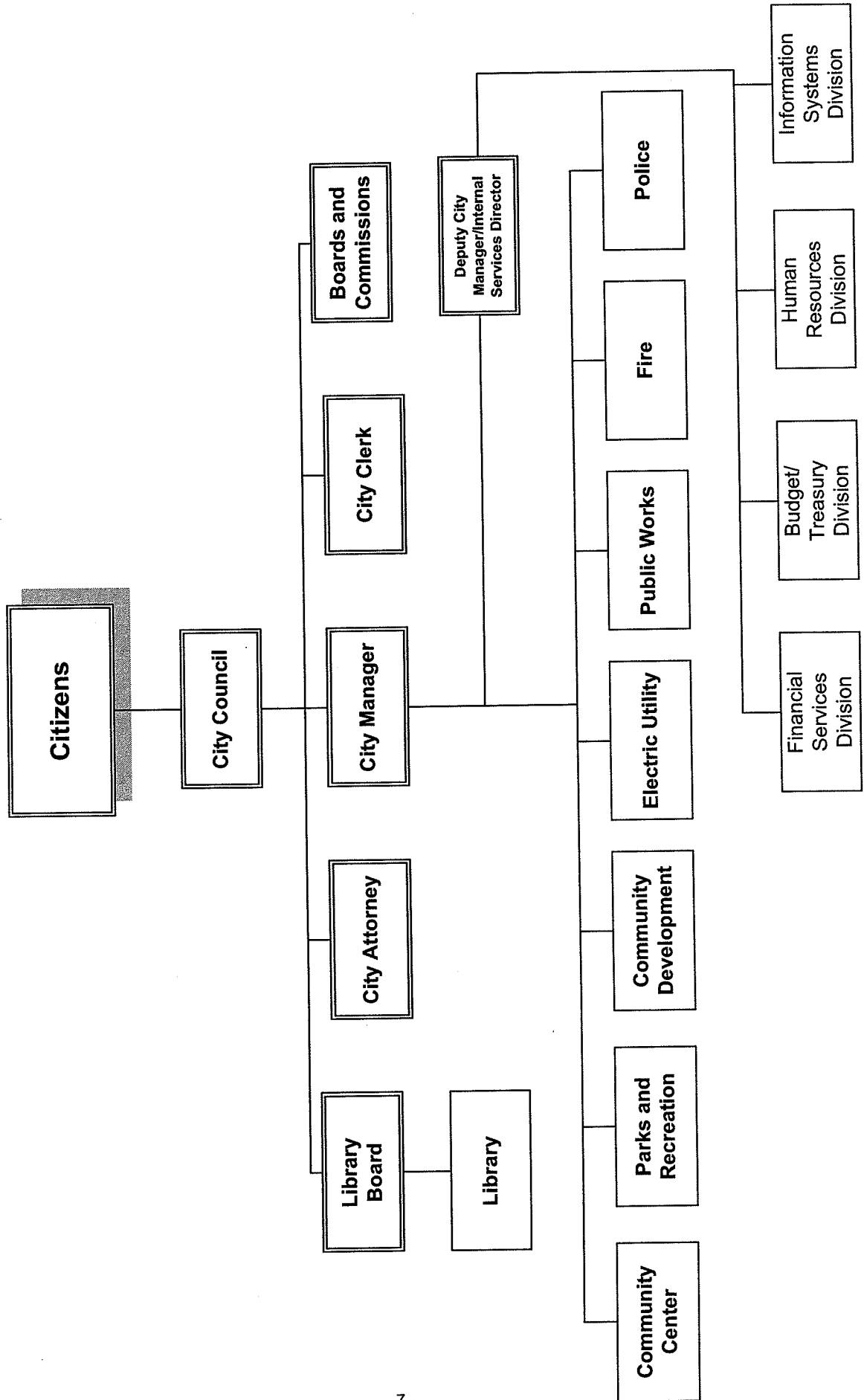
- This component of the City budget comprises a number of business units. Among them are debt service for General Fund supported debt, facilities operation and maintenance costs, transfers to other funds, City-wide postage costs and other general support costs. This unit does not have any direct revenue sources supporting its expenses.

INDIRECT RATES REQUIRED

The following is a listing of the units that will need indirect rates calculated in support of Federal and State grants.

Police Department
Public Works Engineering
Public Works Facility Services
Public Works Water Utility
Public Works Wastewater Utility
Public Works Transit
Public Works Streets
Public Works Fleet Services
Community Development Neighborhood Services
Parks Department
Recreation Department
Library Department

City of Lodi



SUMMARY OF DELIVERABLES

EXHIBIT 2

Fiscal Year	Based on actuals from	City-wide Central Service Cost Allocation Plan	Indirect Cost Rate for														Draft Due	Report Due	Final	
			Police Department	Public Works Engineering	Public Works Facility Services	Public Works Water Utility	Public Works Wastewater Utility	Public Works Transit	Public Works Streets	Public Works Fleet Services	Parks Department	Recreation Department	Library Department	Community Development Neighborhood Services						
2010-2011	2008-2009	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	10/01/2010	11/05/2010	
2011-2012	2009-2010	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	02/01/2011	03/01/2011	
2012-2013	2010-2011	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	02/01/2012	03/01/2012	
2013-2014	2011-2012	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	02/01/2013	03/01/2013	
2014-2015	2012-2013	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	02/01/2014	03/01/2014	

SAMPLE PROFESSIONAL SERVICES AGREEMENT

**PROFESSIONAL SERVICES AGREEMENT
RELATIVE TO
REQUEST FOR PROPOSALS (RFP) ,
OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES**

THIS AGREEMENT is made as of the ____ day of _____, 2010, by and between the CITY OF LODI (hereinafter referred to as "City") and _____, (hereinafter referred to as "Consultant").

WHEREAS, the City desires to obtain professional services to develop City-wide central service cost allocation plans and annual indirect cost proposals for selected divisions/business units in accordance with the Office of Management and Budget (OMB) Circular A-87, and the Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government (ASMB C-10) relative to Request for Proposals (RFP) , *OMB A-87 Cost Allocation Plans and Indirect Cost Rates*; and

WHEREAS, the City has issued an RFP dated April 8, 2010, a copy of which is attached and incorporated as Exhibit A; and

WHEREAS, the Consultant desires to provide such services and has represented that it is experienced and qualified to perform such services. It has submitted a written proposal, dated _____, 2010 a copy of which is attached and incorporated as Exhibit B.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. RENDITION OF SERVICES

The Consultant agrees to provide professional services to the City in accordance with the terms and conditions of this Agreement. In the performance of its work, the Consultant represents that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in developing OMB A-87 Cost Allocation Plans and Indirect Cost Rates, and the Consultant represents that it carries all applicable licenses, certificates, and registrations needed for the work in current and good standing.

2. SCOPE OF SERVICES

The scope of the Consultant's services shall consist of the services set forth in Exhibit A, as supplemented by Exhibit B, except when inconsistent with Exhibit A.

3. SCHEDULE AND TIME OF COMPLETION

The Consultant shall commence work upon the City's issuance of a written notice to proceed. The term of this Agreement will be a five (5)-year contract. Unless the Agreement is terminated sooner pursuant to Section 18, services shall be performed within the deadlines set forth in Exhibit A unless otherwise mutually agreed upon by the City and the Consultant.

4. **KEY PERSONNEL**

It is understood and agreed by the parties that at all times during the term of this Agreement that _____ shall serve as the primary staff person of the Consultant to undertake, render and oversee all of the services under this Agreement. Upon written notice by the Consultant and approval by the City, which will not be unreasonably withheld, the Consultant may substitute this person with another person, who may possess similar qualifications and experience for this position.

5. **COMPENSATION**

The Consultant agrees to perform all of the services included in Section 2 for a total all inclusive sum not-to-exceed fee of _____ (\$_____), in accordance with Exhibits A and B. The total all inclusive sum shall include all labor, materials, taxes, profit, overhead, insurance, subcontractor costs and all other costs and expenses incurred by the Consultant. The hourly rate by personnel category shall be as set forth in Exhibit B. The City will pay the Consultant in accordance with Section 13.

6. **NOTICES**

All communications relating to the day-to-day activities of the project shall be exchanged between the City's Deputy City Manager and the Consultant's _____.

All other notices and communications regarding interpretation of the terms of this contract and changes thereto shall be given to the other party in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the City: City of Lodi
 P.O. Box 3006
 Lodi, CA 95241-1910
 Attention: Jordan Ayers, Deputy City Manager

If to the Consultant: _____

 Attention: _____

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

7. OWNERSHIP OF WORK

All reports, designs, drawings, plans, specifications, analyses, charts, tables, schedules and all other materials prepared, or in the process of being prepared, for the services to be performed by the Consultant shall be and are the property of the City. The City shall be entitled access to and copies of these materials during the progress of the work. Any such materials remaining in the hands of the Consultant or in the hands of any subcontractor upon completion or termination of the work shall be immediately delivered to the City. If any materials are lost, damaged or destroyed before final delivery to the City, the Consultant shall replace them at its own expense and the Consultant assumes all risks of loss, damage or destruction of or to such materials. The Consultant may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to the City. The Consultant agrees to execute any additional documents which may be necessary to evidence such assignment.

The Consultant represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

8. CONFIDENTIALITY

Any City materials to which the Consultant has access or materials prepared by the Consultant during the course of this Agreement ("confidential information") shall be held in confidence by the Consultant, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Consultant as necessary to accomplish the rendition of services set forth in Section 2 of this Agreement.

The Consultant shall not release any reports, information or promotional materials prepared in connection with this Agreement, whether deemed confidential or not, to any third party without the approval of the City.

9. USE OF SUBCONTRACTORS

The Consultant shall not subcontract any services to be performed by it under this Agreement without the prior written approval of the City, except for service firms engaged in drawing, reproduction, typing, and printing. Any subcontractors must be engaged under written contract with the Consultant with provisions allowing the Consultant to comply with all requirements of this Agreement, including without limitation the "Ownership of Work" provisions in Section 7. The Consultant shall be solely responsible for reimbursing any subcontractors and the City shall have no obligation to them.

10. CHANGES

The City may, at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed shall be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the event that the Consultant encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule, or the amount of compensation specified herein, the Consultant shall so advise the City immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in schedule or compensation. This notice shall be given to the City prior to the time that the Consultant performs work or services related to any proposed adjustment. The pertinent changes shall be expressed in a written supplement to this Agreement prior to implementation of such changes.

11. RESPONSIBILITY; INDEMNIFICATION

The Consultant shall indemnify, keep and save harmless the City and its council members, officers, agents and employees against any and all suits, claims or actions arising out of any of the following:

- A. any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the Consultant caused by a negligent act or omission or willful misconduct of the Consultant or its employees, subcontractors or agents; or
- B. any allegation that materials or services provided by the Consultant under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The Consultant further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against the City or any of the other individuals enumerated above in any such action, the Consultant shall, at its expense, satisfy and discharge the same. This indemnification shall survive termination or expiration of the Agreement.

12. INSURANCE

A. Types of Insurance

The Consultant shall not commence work until proper evidence of insurance coverage of the types and amounts specified in this section has been provided to City. The Consultant shall not violate or permit to be violated any conditions or provisions of said policies of insurance, and at all times shall satisfy the requirements of the insurer for the purpose of maintaining said insurance in effect.

If any claim is made by any third person against the Consultant on account of any incident connected to the Agreement, the Consultant shall promptly report the fact in writing to City, giving full details of the claim.

Any person, firm, or corporation that the Consultant authorizes to work upon the City's property, including any subcontractor, shall be deemed to be the Consultant's agent and shall be subject to all applicable terms of this Agreement. Prior to the Consultant's start of the work or entry onto the City's property, the Consultant agrees to require its subconsultants to procure and maintain, at the Consultant's (or its subconsultant(s)) sole cost and expense (and to prove to the City's reasonable satisfaction that it remains in effect throughout the performance of the work under this Agreement), the kinds of insurance described below. Such insurance must remain in effect throughout the term of this Agreement and will be at the sole cost and expense of the Consultant (or its subconsultant(s)).

1) Commercial General Liability Insurance

The Consultant shall, at its own expense, procure and maintain Commercial General Liability insurance providing bodily injury and property damage coverage with a combined limit of at least One Million Dollars (\$1,000,000) each occurrence and a general aggregate limit of at least Two Million Dollars (\$2,000,000). This insurance shall include, but not be limited to, premises and operations, contractual liability covering the indemnity provisions contained in this Agreement, personal injury, products and completed operations, and broad form property damage, and include a Cross Liability endorsement.

Said Policy shall protect the Consultant and the City in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

2) Business Automobile Liability

The Consultant shall, at its own cost and expense, procure and maintain Business Automobile Liability insurance providing bodily injury and property damage with a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence for all owned, non-owned and hired automobiles. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

3) Workers' Compensation and Employers' Liability Insurance

If the Consultant employs any person to perform work in connection with this Agreement, the Consultant shall procure and maintain at all times

during the performance of such work Workers' Compensation Insurance in conformance with the laws of the State of California, and federal laws where applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) for each accident and One Million Dollars (\$1,000,000) for each disease, with a policy limit of One Million Dollars (\$1,000,000).

The policy shall contain a waiver of subrogation in favor of the City and its officers, council members, employees, volunteers, and agents, while acting in such capacity, and their successors and assignees, as they now or as they may hereafter be constituted, singly, jointly, or severally.

4) Professional Liability Insurance

The Consultant shall also maintain Professional Liability Insurance covering the Consultant's performance under this Agreement with a limit of liability of One Million Dollars (\$1,000,000) for any one claim. This insurance shall be applicable to claims arising from the work performed under this Agreement. The policy shall contain an "Extended Reporting Period" provision providing for at least one (1) year of Extended Reporting. In the event of non-renewal or cancellation, the Consultant shall be required to purchase the Extended Reporting Period coverage at Consultant's sole expense or provide evidence of new coverage with a retroactive date prior to the commencement of work under this Agreement. Prior to commencing work under this Agreement, the Consultant shall furnish to City a Certificate of Insurance or certified copy of the insurance policy if requested, indicating compliance with the requirements of this paragraph. This certificate or policy shall further stipulate that thirty (30) days advance written notice of cancellation, non-renewal or estimated settlements in excess of the limits of the policy shall be given to City. In the event of a reduction in limits, the Consultant will provide evidence of reinstatement of limits or provide evidence of additional coverage so that a minimum of One Million Dollars (\$1,000,000) per claim is evidenced.

The Consultant shall notify the City of all professional liability claims that have an estimated settlement value in excess of the policy. If the amount of the professional liability insurance is reduced by other claims, the Consultant shall procure such additional insurance to restate the limits as required under this Agreement.

If any insurance specified above shall be provided on a claims-made basis, then in addition to the coverage requirements stated above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).

b. The Consultant will make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds.

c. If insurance is terminated for any reason, the Consultant agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

The policy must also allow for reporting of circumstances or incidents that might give rise to future claims.

B. General Insurance Requirements

1) Acceptable Insurance

All policies will be issued by insurers acceptable to the City. This insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" rating of B+ and with minimum policyholder surplus of Twenty-Five Million Dollars (\$25,000,000) or a company acceptable to City in its sole discretion. All policies shall be issued in a form satisfactory to the City Manager and shall be issued specifically as primary insurance. Workers' Compensation coverage requirements may be met with the California State Compensation Fund.

2) Procure and Maintain Insurance

The Consultant must, at its own cost and expense, procure and maintain at all times during the performance of this Agreement, all of the required policies specified above. The failure to procure or maintain the required insurance policies and/or an adequately funded self-insurance program acceptable to the City will constitute a material breach of the Agreement.

3) Terms of Policies

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed. If the insurance is provided on a claims-made basis, it must remain in force for the entire term of the Contract and a minimum of three (3) years thereafter.

C. Evidence of Insurance and Endorsements

Prior to commencing of work or entering onto the City's property, the Consultant shall file a Certificate of Insurance with the City evidencing the foregoing coverages, including the following endorsements:

- 1) The insurance company(ies) issuing such policy(ies) will provide at least thirty (30) days' notice to the City of cancellation or non-renewal.
- 2) That the policy(ies) is primary insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim that the Consultant is liable for under this section, up to and including the total limit of liability, without right of contribution from any other insurance maintained or which may be maintained by the City.
- 3) Such insurance shall include as additional insureds the City of Lodi, and its respective council members, officers, employees, and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly, or severally.
- 4) The policy must also contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the City as an additional insured will not in any way affect the City's rights as respects to any claim, demand, suit or judgment made, brought, or recovered against the Consultant. Said policy shall protect the Consultant and the City in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

D. Consequence of Lapse

Should any required insurance not be procured or lapse during the term of this Agreement, requests for payment originating after such lapse will not be processed until the City receives satisfactory evidence of reinstated coverage as required by the Agreement. If insurance is not reinstated, the City, may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

13. MANNER OF PAYMENT

Consultant shall be paid a lump sum for each year's work, as set forth in Exhibits A and B. Upon submission of the final drafts of all deliverables, Contractor shall submit an invoice, detailing the services performed during the billing period which shall conform to the rates specified in Exhibit B as accepted by City. The City shall endeavor to pay approved invoices within thirty (30) days of their receipt. The City reserves the right to retain five percent of the invoiced amount pending written approval of all deliverables by the appropriate cognizant agency, as set forth in Exhibit A.

14. CONSULTANT'S STATUS

Neither the Consultant nor any party contracting with the Consultant shall be deemed to be an agent or employee of the City. The Consultant is and shall be an independent

Consultant, and the legal relationship of any person performing services for the Consultant shall be one solely between that person and the Consultant.

15. ASSIGNMENT

The Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the City.

16. CITY WARRANTIES

The City makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

17. CITY REPRESENTATIVE

Except when approval or other action is required to be given or taken by the City Council, the City Manager, or such person or persons as he/she shall designate in writing from time to time, shall represent and act for the City.

18. TERMINATION

The City shall have the right to terminate this Agreement at any time by cause or by convenience by giving written notice to the Consultant. Upon receipt of such notice, the Consultant shall not commit itself to any further expenditure of time or resources.

If the Agreement is terminated for any reason other than a breach or default by the Consultant, the City shall pay to the Consultant in accordance with the provisions of Sections 5 and 13 all sums actually due and owing from the City for all services performed and all expenses incurred up to the day written notice of termination is given, plus any costs reasonably and necessary incurred by the Consultant to effect such termination. If the Agreement is terminated for breach or default, the City shall remit final payment to the Consultant in an amount to cover only those services performed and expenses incurred in full accordance with the terms and conditions of this Agreement up to the effective date of termination.

The City shall not in any manner be liable for the Consultant's actual or projected lost profits had the Consultant completed the services required by this Agreement.

19. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

All Consultant and subconsultant costs incurred in the performance of this Agreement will be subject to audit. The Consultant and its subconsultants shall permit the City, or its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy the Consultant's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the Consultant pursuant to this Agreement. The Consultant shall also provide such assistance as may be required in the

course of such audit. The Consultant shall retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by the City's auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the Consultant agrees to reimburse the City for those costs within sixty (60) days of written notification by the City.

20. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability or national origin. The Consultant shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

21. NON-DISCRIMINATION ASSURANCE

The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate. The Consultant shall obtain the same assurances from its joint venture partners, subcontractors, and subconsultants by including this assurance in all subcontracts entered into under this Agreement.

22. CONFLICT OF INTEREST

The Consultant warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code §§ 1090 et seq. or §§ 87100 et seq. during the performance of services under this Agreement. The Consultant further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, the Consultant may be required to publicly disclose financial interests under the City's Conflict of Interest Code. The Consultant agrees to promptly submit a Statement of Economic Interest on the form provided by City upon receipt.

No person previously in the position of council member, officer, employee or agent of the City may act as an agent or attorney for, or otherwise represent, the Consultant by making any formal or informal appearance, or any oral or written communication, before the City, or any officer or employee of the City, for a period of twelve (12) months after leaving office or employment with the City if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant or contract.

23. RELEASE OF INFORMATION

The Consultant shall not release any reports, information or promotional materials prepared in connection with this Agreement without the approval of the City.

24. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover, in addition to all court costs, reasonable legal fees.

25. APPLICABLE LAW

This Agreement, its interpretation and all work performed under it shall be governed by the laws of the State of California.

26. BINDING ON SUCCESSORS

All of the terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.

27. ENTIRE AGREEMENT; MODIFICATION

This Agreement, including any attachments, constitutes the entire Agreement between the parties with respect to the subject matter hereof and may not be amended except by a written amendment executed by authorized representatives of both parties. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

FOR THE CITY OF LODI

By: _____

Blair King

Title: City Manager

FOR THE CONSULTANT*:

By: _____

Title: _____

ATTEST:

By: _____

Randi Johl

Title: City Clerk

By: _____

Title: _____

APPROVED AS TO FORM:

By: _____

City Attorney

** If the Consultant is a corporation, this Agreement must be executed by two corporate officers, consisting of: (1) the president, vice president or chair of the board; and (2) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Agreement may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the City is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws.)*

CITY OF LODI**OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES****PROPOSAL FORM**

TO: CITY OF LODI

Pursuant to the Notice Inviting Sealed Proposals, the undersigned Proposer herewith submits a Proposal on the Proposal Form or Forms attached hereto and binds itself on award by the City of Lodi under this Proposal to execute a Contract in accordance with its Proposal, the Proposal documents, and the award. The attached Request for Proposal and Addenda, if any, are made a part of this Proposal and all provisions thereof are accepted, and all representations and warranties required thereby are hereby affirmed.

Submit a fixed all inclusive fee structure to perform all services described in the *Scope of Services (RFP Section I.D.)* and *Project Deliverables (RFP Section I.E.)* for each contract year. No additional reimbursement will be provided for travel, expenses, telephone costs, copying costs, etc. Please indicate hourly rates, as well as a total, not-to-exceed cost.

Please also provide, on a separate page, hourly rates, listed by personnel category, for each of the five years.

The Proposal Form must be signed on Proposal Form page P-2 or P-3, as appropriate. Proposals submitted in any other form will be considered non-responsive and may be rejected.

Contract Year	<u>YEAR 1</u> FY2010-2011	<u>YEAR 2</u> FY 2011-2012	<u>YEAR 3</u> FY 2012-2013	<u>YEAR 4</u> FY 2013-2014	<u>YEAR 5</u> FY 2014-2015
City-wide Central Service Cost Allocation Plan	\$	\$	\$	\$	\$
Indirect Rate Proposals for:					
Police Department	\$	\$	\$	\$	\$
Public Works Engineering	\$	\$	\$	\$	\$
Public Works Facility Services	\$	\$	\$	\$	\$
Public Works Water Utility	\$	\$	\$	\$	\$
Public Works Wastewater Utility	\$	\$	\$	\$	\$
Public Works Transit	\$	\$	\$	\$	\$
Public Works Streets	\$	\$	\$	\$	\$
Public Works Fleet Services	\$	\$	\$	\$	\$
Parks Department	\$	\$	\$	\$	\$
Recreation Department	\$	\$	\$	\$	\$
Library Department	\$	\$	\$	\$	\$
Community Development Neighborhood Services	\$	\$	\$	\$	\$
YEARLY TOTALS	\$	\$	\$	\$	\$
GRAND TOTAL-Sum of Yearly Totals	\$				

Proposer's Comments:

Use additional sheets of papers if necessary

Name Under Which Business is Conducted:

Business Address:

Telephone No.:

 Facsimile No:

MANDATORY SIGNATURE(S)

IF SOLE OWNER, sign here: I sign as sole owner of the business named above:

IF PARTNERSHIP, one or more partners sign here: The undersigned certify that we are partners in the business named above and that we sign this contract proposal with full authority to do so:

IF CORPORATION, sign here: The undersigned certify that they sign this contract proposal with full and proper authorization to do so:

Corporate Name:

By:

 Title:

*By:

 Title:

Incorporated under the laws of the State

(Corporate Seal)

** If the Consultant is a corporation, this Proposal Form must be executed by two corporate officers, consisting of: (1) the president, vice president or chair of the board; and (2) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Proposal Form may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the District is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws.)*

IF JOINT VENTURE, officers of each participating firm sign here: The undersigned certify that they sign this contract proposal with full and proper authorization to do so:

Joint Venture Name Composed of: _____

By: _____ Title: _____

By: _____ Title: _____

DOCUMENTS TO ACCOMPANY PROPOSAL:

_____ Acknowledgement of Addenda (RFP Exhibit 5)

EXHIBIT 5

ACKNOWLEDGEMENT OF ADDENDA

The undersigned Proposer acknowledges receipt of the following addenda, if issued, to the Proposal Documents. If none received, check the appropriate box and sign below.

None Received ☐

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Date: _____

Firm: _____

Signature: _____

Print Name: _____

Title: _____